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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,137	07/11/2001	Christopher M. Tobin	50P4390	2542
530	7590	12/01/2005	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			VIG, NARESH	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/903,137

Applicant(s)

TOBIN ET AL.

Examiner

Naresh Vig

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This is in reference to response received 02 September 2005 to the office action mailed 01 August 2005. There are 24 claims, claims 1 – 24 pending for examination.

Election/Restrictions

Applicant's election without traverse of claims 1 - 24 in the reply filed on 02 September 2005 is acknowledged.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 24 are rejected under 35 U.S.C. 103(a) as being unpatentable
archived web pages of www.divx.com hereinafter known as DivX in view of an article by
Shelly K. Schwartz DivX On The Defensive hereinafter known as Schwartz.

Regarding claims 1, 11 and 18, DivX teaches method, apparatus and system for providing particularized credit to a user in an electronic content distribution system (electronic content provide over disc) that implements a network (DivX player requires a telephone line). DivX teaches:

DivX does not explicitly teach receiving an identifier for a given read only optical storage medium through the network (authorization for additional particularized credit through telephone network). However DivX teaches playing of digital content for predetermined time of two days [page 9]. Schwart teaches that DivX digital content can be reactivated for another viewing period or converted to unlimited viewing (receiving particularized credit for digital content).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify DivX as taught by Schwartz to allow user to enjoy the digital content and pay for the digital content based upon their usage.

DivX in view of Schwartz teaches:

the identifier indicating that the given read only optical storage medium contains a particular content (content of authorization for particularized credit is a design choice);

providing a particular credit to the user based upon receipt of the identifier (DivX player check whether the digital content can be played) , wherein the particular credit is usable for receiving the particular content through the electronic content distribution system.

Regarding claims 4, 12 and 19, DivX in view of Schwartz teaches identifier is a digital fingerprint that identifies the given read only optical storage medium (obvious that DivX identifies the disc to determine whether digital content can be played).

Regarding claims 5, 13 and 20, DivX in view of Schwartz teaches read only optical storage medium is a compact disc.

Regarding claim 6, DivX in view of Schwartz teaches network is an Internet (network used to implement system and method is a design choice).

Regarding claims 2, 7, 14 and 21, DivX in view of Schwartz teaches capability for the particular content to include a musical work (business choice for digital content on an a digital media).

Regarding claims 3, 8, 15 and 22, DivX in view of Schwartz teaches capability for the particular content to include musical compilation comprising a plurality of musical works (business choice for digital content on an a digital media).

Regarding claims 9, 16 and 23, DivX in view of Schwartz teaches the electronic content distribution system downloads the musical work to the user pursuant to a transaction [DivX, page 9]. DivX teaches redemption of the particular credit by the user (initial 2 day period which can be extended by the user).

Regarding claims 10, 17 and 24, DivX in view of Schwartz teaches the electronic content distribution system downloads the musical work to the user pursuant to a transaction [DivX, page 9]. DivX teaches redemption of the particular credit by the user (initial 2 day period which can be extended by the user).

Conclusion

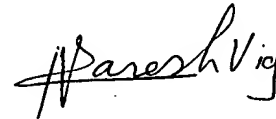
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 CFR '1.111 (c) to consider the references fully when responding to this office action.

1. Concurrent Computer And VOD Pty Ltd Take Video-On-Demand 'Down Under' With Australia's First Commercial Deployment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is (571) 272-6810. The examiner can normally be reached on M-F 7:30 - 6:00 (Wednesday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Naresh Vig". The signature is stylized with a large, sweeping initial "N" and a clear "Vig" at the end.

Naresh Vig
Examiner
Art Unit 3629

November 28, 2005